

Mr. Carl D. Grotzinger
Vice-President,
Mid-Valley Pipeline Company
P. O. Box 2039
Tulsa, OK 74120

Re: CPF No. 46503

Dear Mr. Grotzinger:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, withdraws the notice of amendment, and mitigates the proposed civil penalties. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Based on the recommendation of the Director, Southwest Region, this case is now closed and no further enforcement action is contemplated with respect to matters involved in the case. Thank you for your cooperation in our joint effort to ensure pipeline safety.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
WASHINGTON, D.C. 20590

In the Matter of)
)
Mid-Valley Pipeline Company,) CPF No. 46503
)
Respondent.)

FINAL ORDER

On November 28, 1995, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities at the Mainline from Longview, Texas to west of the Mississippi River, Magnolia and Delhi pipeline systems, and records in Haynesville, Louisiana. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated January 8, 1996, a Notice of Probable Violation, Proposed Civil Penalty, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195 and proposed assessing civil penalties of \$4,000.00 and \$500.00 for the alleged violations of §§ 195.412(b) and 195.416(i) respectively. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its Operating and Maintenance Procedures.

Respondent responded to the Notice by letters dated February 7, 1996¹ and April 26, 1996 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information in mitigation of the proposed civil penalty, and information concerning the corrective actions it has taken. Respondent did not request a hearing and therefore, has waived its right to one.

¹The February 7, 1996 Response is dated as such on the cover page. It is dated February 3, 1996 on all pages following the cover page. I will refer to it as the February 7, 1996 Response.

FINDINGS OF VIOLATION

The Notice alleged as Item 3 that Respondent was in violation of 49 C.F.R. §195.412(b) for exceeding the inspection interval of eight crossings under navigable waterways. Section 195.412(b) requires that each operator shall, at intervals not exceeding five years, inspect each crossing under a navigable waterway to determine the condition of the crossing.

In its Response, Respondent did not deny the allegation. Respondent stated that the late inspections were due to its misinterpretation of the five-year interval inspection requirement to mean five calendar years instead of sixty months. (February 7, 1996; Response, p.4). Respondent further stated that it would make the necessary arrangements to comply with the 60-month inspection time limit in the future. Accordingly, I find that Respondent violated 49 C.F.R. §195.412(b).

The Notice alleged as Item 4 that Respondent was in violation of 49 C.F.R. §195.416(i) for failure to maintain required atmospheric protection as required on above ground piping at Magnolia Station. Section 195.416(i) requires an operator to clean, coat with material suitable for the prevention of atmospheric corrosion, and, maintain this protection for, each component in its pipeline system that is exposed to the atmosphere. Respondent explained, in its Response, that the Magnolia station manifold piping paint was in good condition, but acknowledged that it had a few areas of deterioration which were not yet significant enough to result in atmospheric corrosion. (February 7, 1996; Response, p.4). Respondent committed to spot paint the areas of deterioration by March 1, 1996. Accordingly, I find that Respondent violated 49 C.F.R. §195.416(i).

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

PENALTY ASSESSMENT

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a penalty of \$4,000.00 for Respondent's violation of Item 3 and \$500.00 for the violation of Item 4.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

In regard to Item 3, Respondent stated that it now operates under Sun Pipeline Company's² Operation, Maintenance and Inspection Manual. Respondent submitted documentation of its procedures which reflect the corrected interpretation of the inspection interval requirement. (February 7, 1996; Response, p.4). With respect to Item 4, Respondent stated in its Response that it had completed the spot painting. (April 26, 1996; Response, p.1).

As noted in footnote 2, the operation and maintenance of Mid-Valley Pipeline Company was assumed by Sun Pipeline Company several months before the OPS inspection. Due to this fact, it would be unfair to penalize Sun Pipeline Company for the acts of Mid-Valley Pipeline Company. Accordingly, having reviewed the record and considered the circumstances, I am mitigating the assessed civil penalties to \$0.

AMENDMENT OF PROCEDURES

Item 1 of the Notice alleged inadequacies in Respondent's Operating and Maintenance Manual and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R §195.402(a) by including procedures to address §195.112(c) and §195.424(a).

In its February 7, 1996 Response, Respondent submitted copies of additional Sun Pipeline Company Procedures and Policies which comply with the noted violations and which the Director, Southwest Region, OPS has accepted as adequate to assure safe operation of Respondent's pipeline system. Accordingly, no need exists to issue an order directing amendment.

Item 2 of the Notice alleged inadequacies in Respondent's Operating and Maintenance Manual and proposed to require amendment of Respondent's procedures to comply with the

4

requirements of 49 C.F.R. §195.404(a)(3). Compliance could be achieved by correcting

²Respondent explained that Sun Pipeline Company assumed responsibility for Mid-Valley Pipeline's operation and maintenance on May 1, 1995, several months prior to the inspection by OPS, Southwest Region.

discrepancies concerning allowable pressures in the Operation and Maintenance Manual between the "Allowable Pressure Chart" section and individual station information sheets.

In its April 26, 1996 Response, Respondent submitted copies of its amended procedures, which the Director, Southwest Region, OPS has accepted as adequate to assure safe operation of Respondent's pipeline system. Accordingly, no need exists to issue an order directing amendment.

Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

/s/ Richard B. Felder

Richard B. Felder
Associate Administrator
for Pipeline Safety

Date issued: __01/07/98_____